

BARBARA HOFFMAN (BH 8931)
The Hoffman Law Firm
330 West 72nd Street
New York, New York 10023
(212) 873-6200 (phone)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BARBARA BROUGHEL

Plaintiff,

v.

THE BATTERY CONSERVANCY, WARRIE
PRICE, CLAIRE WEISZ AND MARK YOES,
"DBA" WEISZ + YOES

Defendants.

07 Civ. 7755

ECF Case

CROSS-MOTION FOR A PRELIMINARY INJUNCTION

Under the authority of Rule 65 of the Federal Rules of Civil Procedure and upon the accompanying Memorandum of Law in Support of Plaintiff's Cross-Motion for a Preliminary Injunction and in opposition to Defendant's motion for Judgment on the Pleadings, the Affidavit of Theodore Berger (March 12, 2008), the Declaration of Frederieke Taylor (March 28, 2008), the Declarations of Barbara Broughel (March 28, 2008 and April 17, 2008), and the Declaration of Barbara Hoffman (March 31, 2008), and upon all papers filed and proceedings held herein, Plaintiff Barbara Broughel hereby respectfully requests that this Court enter a preliminary injunction, pending final resolution of this action enjoining Defendants and their employees and agents from proceeding on the Sea Glass, the Carousel Project at the Battery.

As set forth in Plaintiff's Memorandum of Law and the Declarations and Affidavits filed in support of the motion and in the Amended Complaint, Plaintiff meets all the requirements for the issuance of a preliminary injunction.

Defendants have wrongfully prevented Plaintiff from the completion of the Commission awarded to her and approved by the relevant agencies of the City of New York and are misappropriating and using without credit and authorization, plaintiff's intellectual property. Because Plaintiff Artist has no remedy at law for this continuing harm, it qualifies as "irreparable harm." Federal statutes, and federal and state case law support artist Barbara Broughel's position, making it likely that she will succeed on the merits of this action. Accordingly, under the applicable legal standards in the Second Circuit, preliminary injunctive relief is warranted.

Dated: New York, New York
April 17, 2008

Respectfully submitted,



Barbara Hoffman, Esq. (BH 8931)
The Hoffman Law Firm
330 West 72nd Street
New York, New York 10023
(212) 873-6200

Attorney for Plaintiff Barbara Broughel